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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Report of the Secretary-General pursuant to Commission on Human Rights resolution 1996/12

Introduction

1. At its fifty-second session, the Commission on Human Rights, in its resolution 1996/12, considered that, in order to find a durable solution to the debt crisis, there was a need for a political dialogue within the United Nations system between creditor and debtor countries, based on the principle of shared responsibility. Furthermore, the Commission requested, inter alia, the Secretary-General to continue the efforts to carry out this dialogue and to submit to the Commission at its fifty-third session, after a high-level consultation process with Governments, heads of multilateral financial institutions and specialized agencies, as well as with intergovernmental and non-governmental organizations, a report on the measures to be implemented in order to achieve a durable solution to the debt crisis of developing countries, so that they might fully enjoy all human rights.

2. In order to obtain the most recent information in this regard, the Secretary-General sent, on 10 October 1996, a note verbale to Governments and a letter to United Nations bodies, specialized agencies and intergovernmental and non-governmental organizations on 30 September 1996. As of 16 December 1996, the Governments of Croatia, Cuba, South Africa and Switzerland had sent replies. The Governments of Cuba and South Africa informed the Secretary-General that information on the measures to be implemented in order to achieve a durable solution to the debt crisis of

developing countries would be sent at a later stage. The International Monetary Fund, the International Confederation of Free Trade Unions and Pax Romana also sent replies.

3. Further information on the issue of external debt is contained in the report of the Working Group on the Right to Development on its fifth session (E/CN.4/1996/24), the report of the Intergovernmental Group of Experts on the Right to Development on its first session (E/CN.4/1997/22) and the second interim report on the question of impunity of perpetrators of human rights violations (E/CN.4/Sub.2/1996/15).

4. The present report also contains information on the consultations between the High Commissioner for Human Rights and the World Bank, held on 24 and 25 July 1996 in Washington, D.C., in compliance with Commission on Human Rights resolution 1996/12.

I. INFORMATION PROVIDED BY GOVERNMENTS

Croatia

[19 November 1996]
[Original: English]

1. In the opinion of the Government of Croatia, it is necessary to bring together creditor and debtor countries as well as multilateral financial institutions and specialized agencies forming a part of the United Nations system.

2. In regard to the possible impact of the foreign debt on the enjoyment of the right to development, the Government of Croatia is of the opinion that such debts, particularly if followed by obligation of payment of high interest rates, seriously impede the possibility of enjoyment of both economic and political development as mentioned in the Declaration on the Right to Development.

3. Furthermore, the Government of Croatia welcomes the recently expressed support of the World Bank and the Group of 24 in respect of the Initiative for Heavily Indebted Poor Countries (HIPC Initiative).

Switzerland

[12 November 1996]
[Original: French]

1. In 1991, on the occasion of the 700th anniversary of the Confederation, the Swiss Government submitted to parliament a bill under which Switzerland would contribute on the one hand to additional debt cancellation measures and on the other to political development measures. The bill covered specific measures to help alleviate the harmful social and ecological consequences of the economic crisis affecting many countries.

2. Subsequently, parliament approved the appropriation of two framework credits - one to finance debt-reduction measures on behalf of impoverished

developing countries and the other to finance programmes and projects on behalf of the global environment in the developing countries - worth a total of 700 million francs and lasting at least five years. The funds earmarked for debt-reduction measures (amounting to 400 million francs) will make it possible for Switzerland to strengthen debt-reduction measures in the recipient countries, to widen the circle of potential recipient countries and to support accompanying measures. In principle, contributions by Switzerland to debt-reduction are linked to the following five conditions:

(a) The country concerned must be a heavily indebted poor developing country; the measures must focus, in particular, on the least-developed countries (LDCs) and on countries where Switzerland is actively involved in cooperation for development;

(b) The recipient country must be engaged on a medium-term economic reform programme to restore confidence and to reduce the risk of a relapse once the debt has been reduced, and which encourages broad participation by the population in development;

(c) The country must possess a debt-management system including a broader relief and consolidation programme at various levels;

(d) The debt to be written off as a result of Switzerland's contribution and of similar contributions by other countries must be sufficiently large, particularly in the case of multilateral measures, for it to have a marked impact on the growth and development of the country concerned;

(e) In debt buy-back, debt-conversion and similar operations, private creditors must be involved in a way that requires them also to contribute an amount matching their exposure. The amount represents the real loss (in the form of discount) on the original loan.

3. In the 1990s, the implementation of this project, in conjunction with other measures, made it possible to cancel a total of 1.1 billion Swiss francs of guaranteed bilateral loans to the poor countries.

4. Switzerland is one of the major contributors to the World Bank's debt-reduction facility, which has made it possible to cancel almost 100 per cent of the commercial debt of the eligible countries. Switzerland also participates in international operations to fund the arrears and current obligations of the poorest countries towards the multilateral institutions.

5. Switzerland believes that the report prepared by the Secretary-General should also mention the Debt Initiative of the World Bank and IMF, the aim of which is sustainably to reduce the debt of the most indebted LDCs, and which should be operational in 1997. This initiative takes into consideration some of the concerns and objectives of resolution 1996/12.

II. INFORMATION PROVIDED BY THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

1. In 1995, the High Commissioner for Human Rights established contacts with the World Bank which led to consultations between the two held in Washington, D.C., from 24 to 25 July 1996. The adoption by the High Commissioner of a comprehensive approach to human rights and the World Bank's focus on sustainable development, including assistance to human resources, governance and the rule of the law, have provided a substantive basis for cooperation. The purpose of the consultations was to explore, in the context of the programmes aimed at sustainable development, various aspects of reinforced cooperation with the World Bank as well as between the two institutions and other partners, including Governments, international organizations, expert bodies, etc. This objective has been fully achieved.

2. Both the High Commissioner, Mr. Ayala-Lasso, and the President of the World Bank, Mr. Wolfensohn, underscored the need for close cooperation and declared their determination to facilitate mutual contacts and to coordinate activities. The cooperation will have a strong foundation in the common objectives of the two institutions as parts of the United Nations and in shared advantages resulting from mutual support.

3. During the meeting statements were read by:

(a) Mr. Mark Malloch-Brown, Vice President, on "Partnership and policies: the World Bank, the United Nations and human rights";

(b) Mr. Ibrahim Shihata, Senior Vice President and General Counsel, on "Mandate and mission: the World Bank and human rights";

(c) Mr. José Ayala-Lasso, High Commissioner for Human Rights on "Mandate and mission: the United Nations system and human rights".

These statements were followed by three dialogues on "Assistance in human resources - The realization of the right to development and the realization of economic, social and cultural rights", "Post-conflict reconstruction", and "Civil society and participation - Institution-building and transition to democracy (governance and the rule of law)".

4. The meeting discussed a number of interesting points:

(a) The World Bank and the United Nations human rights programme are part of the same intergovernmental system; they share a common objective: the well-being of the individual. Whereas each sector of the United Nations has a distinct role to play under its respective mandate and terms of reference, there is a need to ensure consistency and complementarity in the efforts of each of these sectors;

(b) The programmes and policies of the United Nations human rights programme and those of the World Bank are focused on assistance to Member States and their societies, with a view to contributing to sustainable development, which includes respect for human rights;

(c) The consultations have shown that the World Bank, in particular in its programmes related to assistance to human resources (health protection, housing, employment, education, support for women and children, protection of indigenous people, governance and the rule of law), is largely active in the same areas as the United Nations human rights programme;

(d) The present activities of the World Bank and the United Nations human rights programme, their respective place in the United Nations system and the recommendations made by relevant world conferences, the General Assembly and the Commission on Human Rights provide a framework for advantageous cooperation between the two institutions, which should now be filled with substance in the form of practical steps;

(e) It was a clearly shared view that the responsible units of the World Bank and the United Nations human rights programme should enter into cooperation in the following areas:

(i) Exchange of information and cooperation in the preparation of country projects;

(ii) Exchange of expertise with regard to reconstruction and development assistance in the transition to democracy;

(iii) Cooperation of field offices;

(iv) Building national capacities for governance and the rule of law/promotion and protection of human rights (legislation, training, administration of justice, national institutions, institutions implementing social rights, etc.);

(v) Human rights education;

(vi) Cooperation in supporting the implementation of the Convention on the Rights of the Child, including support for the Committee on the Rights of the Child and further exploration of the possible support for the activities of the other human rights treaty based bodies.

5. The consultations were substantive and fruitful. The participation by the leadership and senior operative staff of the Bank in the consultations and the Bank's input at a high professional level proved the vivid interest of the Bank and the High Commissioner/Centre for Human Rights in learning more about each other's programmes and methods of work. They also offered a chance to analyse how the two institutions can work together, particularly in the field of the right to development.

III. INFORMATION PROVIDED BY SPECIALIZED AGENCIES

International Monetary Fund

[17 October 1996]
[Original: English]

1. At its meeting in April 1996, the IMF's Interim Committee requested the IMF, in conjunction with the World Bank and in close collaboration with all involved creditors and donors, to put forward specific proposals to address the problems of a limited number of Heavily Indebted Poor Countries (HIPCs) which followed sound policies, but for which existing debt relief mechanisms were inadequate to secure a sustainable external debt position over the medium term.

2. At a first stage, in order to implement the "Debt Initiative", Paris Club creditors would provide a flow rescheduling under Naples terms 1/ along with comparable action by other bilateral and commercial creditors.

3. Towards the end of the first stage, the IMF/World Bank would agree with the country authorities on an external debt sustainability analysis in consultation with other creditors. Based on this analysis, if strong policies and a Paris Club stock-of-debt operation on Naples terms are sufficient to put the country in a sustainable external debt position within three years, the country would request such an operation and would not be eligible for assistance under the Initiative. Alternatively, if the country's overall debt burden would not be sustainable within three years, it might be eligible for and may request additional support under the Initiative. In borderline cases, the country may request a further flow rescheduling under Naples terms.

4. At a second stage, for countries that are eligible for support under the Initiative, the Paris Club would, on a case-by-case basis, provide more concessional flow rescheduling than on Naples terms for eligible debt. A debt workout meeting co-chaired by the World Bank and the IMF and attended by representatives of the debtor country would agree on a financial plan and commit to additional assistance needed for the country to achieve debt sustainability within three years.

5. The Paris Club would provide, along with other bilateral and commercial creditors, on a case-by-case basis, deeper stock-of-debt reduction than on Naples terms for eligible debt. Multilateral institutions would take additional measures for the country to reach a sustainable debt situation.

1/ Concessional debt reduction terms for low-income countries approved by the Paris Club in December 1994 and applied on a case-by-case basis. Countries can receive a reduction of eligible external debt of up to 67 per cent in net present value (NPV) terms.

IV. INFORMATION PROVIDED BY NON-GOVERNMENTAL ORGANIZATIONS

International Confederation of Free Trade Unions

[19 November 1996]
[Original: English]

1. In ICFTU's opinion, the principal effect of debt and structural adjustment on human rights has been due to the need to reduce public spending in vital areas such as education and health. In addition, a range of services to benefit women in particular have been severely cut back as a part of structural adjustment programmes.

2. Furthermore, debt and structural adjustment have also compelled certain Governments to restrict trade union and other workers' rights in order to maximize their export earnings and in some cases have led Governments to amend labour legislation to reduce job security and weaken free trade unions.

Pax Romana

[13 November 1996]
[Original: French]

1. The solution to the external debt problem of the developing countries requires an international agreement to determine the major lines of action. This entails the need for a multilateral political dialogue in which debtor countries, creditor countries and international financial agencies participate on an equal footing, within the framework of an international conference or of the United Nations General Assembly itself.

2. The dialogue must:

(a) Observe the principle of shared responsibility among all participating States and international financial agencies;

(b) Strictly observe the principles of the sovereign equality and self-determination of peoples and of non-intervention in the domestic affairs of other States;

(c) Involve a commitment by the developed countries not to take any initiative that might directly or indirectly affect the social or economic development of the developing countries and consequently to recognize the right of each State freely to choose its social, economic and political system.

3. These principles have been corroborated by the Programme of Action of the 1995 Copenhagen World Summit for Social Development. The Naples terms adopted by the Paris Club in December 1994, represent a good strategy. Despite a 67-per cent reduction in debt service, many developing countries (in particular the low-income ones) remain deeply in debt, mainly to the multilateral financial agencies.

4. Pax Romana supports the following proposals, which were made by the Commission on Human Rights in its resolutions 1995/13 and 1996/12 and in UNCTAD's Trade and Development Report 1996:

(a) The sale of part of IMF's gold reserves in order to alleviate the debt burden without resorting to funds earmarked for development assistance;

(b) Debt-reduction measures in conjunction with measures to improve the international economic climate;

(c) The cancellation and/or reduction of part of the official debt and of its servicing;

(d) New flows of financial facilites to the debtor developing countries;

(e) More transparency in the activities of international financial institutions. To achieve this, Pax Romana advocates that the General Assembly and the Economic and Social Council should be periodically informed of the social impact of their policies on the enjoyment of social rights;

(f) Debt payments should not take precedence over the basic rights of the people of debtor countries;

(g) A fair and equitable multilateral trade system must be established, as well as regular access to environmental technology, while transnational activities must be regulated. Accordingly, Pax Romana wishes vigorously to endorse the study on the question of the impunity of perpetrators of violations of economic, social and cultural rights prepared by the expert Mr. Guissé, and urgently calls for his mandate to be renewed for one year to enable him to complete his study.